

United States Bankruptcy Court
Western District of Virginia
Lynchburg Division

In RE:
Bradley Thomas Combes
Sherry Cash Combes
Debtor

BCN#: 17-61193-RBC
Chapter: 13

Seterus, Inc. as the authorized subservicer
for Federal National Mortgage Association
c/o Seterus, Inc.

Movant/Secured Creditor,

v.

Bradley Thomas Combes
Sherry Cash Combes
Debtor

and

Herbert L. Beskin
Trustee

Respondents

CONSENT ORDER MODIFYING AUTOMATIC STAY

This matter came upon the Motion of Seterus, Inc. as the Authorized Subservicer for Federal National Mortgage Association c/o Seterus, Inc. (“Seterus”), for relief from the automatic stay, with respect to the real property located at 255 Frost Drive, Concord, VA 24538 and more particularly described in the Deed of Trust dated January 31, 2007 and recorded as Instrument Number 070000806 among the land records of the said city/county, as:

That certain tract or parcel of land together with the buildings and improvements situate thereon and any and all privileges and appurtenances thereunto belonging, lying and being in the Long Mountain District, Campbell County, Virginia, being designated as Lot No. 47, containing 0.807 acre, which is shown and described upon that certain plat of survey entitled “Plat Showing Concord Estates Subdivision, Long Mountain Dist., Campbell Co., Virginia”, made by Russell E. Nixon, L.S., which said plat is recorded in the Clerk’s Office of the Circuit Court of Campbell County, Virginia in Cabinet B, Slide 380, Page 2705.

Jon M. Ahern, Esquire
State Bar Association No: 018218
Sykes, Bourdon, Ahern & Levy, P.C.
281 Independence Boulevard
Pembroke 1 Building, Fifth Floor
Virginia Beach, VA 23462
757-499-8971

UPON consideration of which, it is ORDERED:

1. That Trustee will resume making regular monthly installment payments on behalf of the Debtor in the amount of \$1,437.51, pending further notice from the mortgage company, as they become due commencing June 1, 2018.

2. That debtor has been made aware of settlement of the Motion for Relief from Stay, and will cure the post-petition mortgage payments owed for the months of August, 2017 through May 2018, sub-totaling \$12,937.59 and its attorney's fees and court costs of \$1,031.00, total to cure \$13, 968.59 by amending its Chapter 13 plan which will include provision of payment of the Plaintiff's existing post-petition arrearages to be paid in full as an allowed secured claim together with Plaintiff's existing unpaid arrearage claim. The Trustee will pay the arrears, without the need for an amended claim filed. Should the Debtor (a) fail to timely file an Amended Chapter 13 Plan within thirty (30) days of entry of this Order, or (b) should, after filing the Amended Chapter 13 Plan, the same not be confirmed, then relief from automatic stay of 11 U.S.C. 362 is, shall be granted, by entering an endorsed Order Granting Relief from Stay with the Court, to the Plaintiff, its successors or assigns, without further order of the Court so as to allow Plaintiff, its successors or assigns, to proceed under state law to enforce the lien of its deed of trust.

3. In the event that any payment required by this Order is not received by the Movant within 15 days after it is due, the Movant may mail a notice of default to the debtor by first class mail, postage prepaid (and, if it desires, also by certified or registered mail), with a copy to debtor's counsel and the trustee by first class mail, postage prepaid, or by e-mail at the same time as the notice of default is mailed to the debtor. The notice of default will state in simple and plain language:

Jon M. Ahern, Esquire
State Bar Association No: 018218
Sykes, Bourdon, Ahern & Levy, P.C.
281 Independence Boulevard
Pembroke 1 Building, Fifth Floor
Virginia Beach, VA 23462
757-499-8971

- a. That the debtor is in default in making at least one payment required under this order;
- b. The dates and amount of each payment missed and any late charge or other fee necessary to cure the default;
- c. The action necessary to cure the default, including any address to which payments must be mailed;
- d. That the debtor or trustee must take one of the following actions within fourteen days after the date of the mailing of the notice of default:
 - i. cure the default;
 - ii. file an objection with the Court stating that no default exists; or
 - iii. file an objection with the Court stating any other reason why an Order granting relief from the automatic stay should not be entered;
- e. That if the debtor or trustee does not take one of the actions set forth in paragraph 4(d), the Movant may file a certificate that it has complied with the terms of this Order and that the Court may grant relief from the automatic stay without further notice to the debtor; and
- f. That if the automatic stay is terminated, the collateral may be sold at foreclosure.

If the debtor or trustee does not take one of the actions set forth in paragraph 3(d), the Movant may submit a certificate stating that it has complied with the terms of this Order and that neither the debtor nor the trustee has taken one of the actions set forth in paragraph 3(d) and may submit together with the certificate a draft order terminating the automatic stay.

If the debtor or trustee files an objection to the notice of default, the Movant must set the matter for hearing and give notice of the hearing to the debtor, debtor's counsel and the trustee. At the hearing, the Court may terminate the stay or take other action appropriate to the circumstances.

4. The provisions of this Order with respect to regular monthly installment payments expire one year after the date of the entry of this Order. In the event of the default in payment of any regular monthly installment payment due more than one year after the date of entry of this Order, the Movant must obtain relief by filing a new motion for relief from stay with appropriate notice and hearing.

Jon M. Ahern, Esquire
State Bar Association No: 018218
Sykes, Bourdon, Ahern & Levy, P.C.
281 Independence Boulevard
Pembroke 1 Building, Fifth Floor
Virginia Beach, VA 23462
757-499-8971

5. Until an Order is entered terminating the automatic stay, the Movant may not refuse to accept or apply payments tendered by the debtor, even if such payments are late or in an improper amount; however, acceptance of non-conforming payments is without prejudice and shall not constitute a waiver of any default.

6. The automatic stay is modified to permit the noteholder or servicing agent to send the debtor payment coupons, payment statements or invoices, notices of late payment, notices of payment changes, notices of servicing transfers, or any other notice, other than a notice of acceleration or demand for payment of the entire balance, normally sent to customers in the ordinary course of business.

7. Should the debtor default pursuant to the terms contained herein, unless otherwise ordered by this court, the Movant shall be entitled to reasonable attorneys fees in the amount of \$75.00 for issuance for a notice of default, and an additional \$100.00 for issuance of a certificate of default and preparation of an order terminating the automatic stay.

8. Once the debtor makes all stipulated payments and the regular monthly mortgage payments during the cure period as required in the Order, than all monthly payments, costs, fees, and late charges shall be deemed current from the date of filing of the bankruptcy through the date of the entry of the Order.

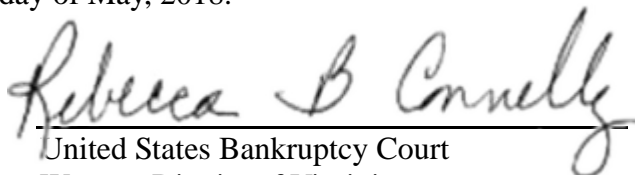
9. By endorsement of this Order, counsel for the debtor affirmatively represents that the Debtor has been advised of the terms of this agreement.

10. That while this Chapter 13 case remains open, the Movant shall promptly notify the Court and the Chapter 13 Trustee in writing of the results of any foreclosure of the subject property and pay the Chapter 13 Trustee any excess funds received from foreclosure sale, to be

Jon M. Ahern, Esquire
State Bar Association No: 018218
Sykes, Bourdon, Ahern & Levy, P.C.
281 Independence Boulevard
Pembroke 1 Building, Fifth Floor
Virginia Beach, VA 23462
757-499-8971

disbursed upon agreement with the Debtor or upon further order of the Court.

DONE at Lynchburg Division, Virginia this 30th day of May, 2018.


United States Bankruptcy Court
Western District of Virginia

I ASK FOR THIS:

/s/ Jon M. Ahern
Jon M. Ahern, Esq.
Counsel for Movant

SEEN AND AGREED:

/s/ David Wright
David Wright, Esq.
Attorney for Debtor(s)

SEEN WITH RESERVATION OF
RIGHT TO OBJECT TO MODIFIED
PLAN:

/s/ Herbert L. Beskin
Herbert L. Beskin, Trustee

CERTIFICATION

The undersigned certifies that the foregoing Consent Order Modifying Automatic Stay is identical to the form order required by Administrative Order 10-2 and that no modification, addition, or deletion has been made.

/s/ Jon M. Ahern
Jon M. Ahern, Esq.
VSB # 018218

Jon M. Ahern, Esquire
State Bar Association No: 018218
Sykes, Bourdon, Ahern & Levy, P.C.
281 Independence Boulevard
Pembroke 1 Building, Fifth Floor
Virginia Beach, VA 23462
757-499-8971

CERTIFICATION

I hereby certify that pursuant to Local Rule 9022-1(c)(1) that all necessary parties have endorsed the foregoing proposed Order and that the Order is ready for entry.

/s/ Jon M. Ahern
Jon M. Ahern, Esq.
VSB # 018218

Will the Clerk please send copies of this Order in electronic format to all parties who are listed on the ECF system and to:

Bradley Thomas Combes
P.O. Box 573
Concord, VA 24538

Sherry Cash Combes
P.O. Box 573
Concord, VA 24538

Janice Hansen
900 Lakeside Drive
Lynchburg, VA 24501

Herbert L. Beskin
P.O. Box 2103
Charlottesville, VA 22902

Jon M. Ahern, Esquire
State Bar Association No: 018218
Sykes, Bourdon, Ahern & Levy, P.C.
281 Independence Boulevard
Pembroke 1 Building, Fifth Floor
Virginia Beach, VA 23462
757-499-8971